



Patent  
Customer No.: 022870  
Docket No.: 14690.006US

6A  
JP

**UNITED STATES PATENT AND TRADEMARK OFFICE  
PATENT OPERATIONS**

Applicant: Myerson et al.  
Application No.: 09/965751  
Filing Date: 28 September 2001  
Title: Polarization Switching  
to Control Crystal Form

Art Unit: 1654  
Examiner: Russel, J.

**RESPONSE AND AMENDMENT**

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Box Response - Fee  
Commissioner of Patents  
PO Box 1450  
Alexandria VA 22313-1450

6 June 2003

Atlanta GA 31156-7685

Sir:

Paper No. 5 dated 11 March 2001 from examiner Jeffrey E. Russel of Art Unit 1654 has been received. The following is submitted in response.

I certify that I have deposited this document with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Box Response - Fee, Commissioner of Patents, PO Box 1450, Alexandria VA 22313-1450, this 6<sup>th</sup> day of June, 2003.

  
Laurence P. Colton

## STATUS

The above-captioned patent application is pending.

Claims 1-45 currently are pending in the patent application.

The examiner has alleged that Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 USC 120.

The Specification has been objected to for minor informalities.

Claims 14-17 and 37 have been objected to under 35 USC 112.

Claim 24 has been objected to for a minor spelling mistake.

Claims 1, 3-7 and 9-18 have been rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over Claims 1-26 of US Patent No. 6426406 to Myerson ("Myerson '406").

Claims 1, 3-7, 9 and 11-18 have been provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over Claims 1-33 of copending Application No. 09/918935 to Myerson ("Myerson '935").

Claims 5-7 and 15 have been rejected as being directed to an invention not patentably distinct from Claim 1-33 of commonly assigned copending Myerson '935.

The effective filing date of Claims 1, 3, 4, 9-14 and 16-18 has been deemed by the examiner to be 23 October 2000, the priority date of the parent Patent Application No. 09/694404 ("Myerson '404").

The effective filing date of Claims 2, 5-8, 15 and 16-18 has been deemed by the examiner to be 28 September 2001, the filing date of Myerson '404.

The examiner has requested that Applicants point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention.

Claims 1-4, 11-19, and 25-38 are rejected under 35 USC 102(b) as being anticipated by the article authored by Garetz et al. (the "Garetz Article").

Claims 13 and 35 are rejected under 35 USC 102(b) as being anticipated by the Garetz Article in view of the Merck Index.

Claims 2, 5, 10, 19, 25-39, and 45 are rejected under 35 USC 103(a) as being obvious over the Garetz Article.

Claims 1, 4, 9, 11-14 and 17 are rejected under 35 USC 102(a) as being anticipated by US Patent No. 5976325 to Blanks ("Blanks '325").

Claim 13 is rejected under 35 USC 102(b) as anticipated by Blanks '325 in view of the Merck Index.

Claims 10, 15, 16 and 18 are rejected under 35 USC 103(a) as being obvious over Blanks '325.

Claim 2, 5-7, 15, 19-23, 25-42, and 44 are rejected under 35 USC 102(e) as being anticipate US Publication No. 2003/0024470 (Publication '470).

Claims 8, 24 and 43 are objected to as being dependant upon a rejected base claim, but would be allowable if rewritten in independent form.